



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

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January 20, 2022

By Email and ECF

Honorable Nicholas G. Garaufis
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Victor Acosta Bourne
Criminal Docket No. 08-888 (NGG)

Dear Judge Garaufis:

The government writes pursuant to the Court's December 28, 2021 order directing the government to respond to defendant Victor Bourne's pro se motion to supplement the record on appeal of the Court's denial of his motion to compel the government to produce certain grand jury minutes. See ECF No. 456 (Def. Mot. Supplement); D.E. dated Dec. 28, 2021.

As the Court is aware, the defendant asserted that he requires the grand jury minutes to support his motion to vacate his conviction pursuant to Title 28, United States Code, Section 2255. ECF No. 432 (Def. Mot. Compel). The government opposed the defendant's motion on December 31, 2020. ECF No. 438 (Gov't Opp.). The Court denied the defendant's motion on September 14, 2021, finding that the defendant failed to show why the requested materials were needed to avoid a possible injustice in his Section 2255 motion and that the defendant failed to make the requisite particularized need showing required for the disclosure of grand jury minutes. ECF No. 452 (Mem. & Order).

On January 10, 2022, the Second Circuit dismissed the defendant's appeal, which underlies the instant motion, for failure to file a Form D-P. See Victor Acosta Bourne v. United States, Appeals Docket No. 21-2497, ECF No. 11. As such, the defendant's request to supplement the record on appeal is moot. Nonetheless, the government writes pursuant to the

